

IN THE DRAWINGS

Please consider and enter the following Replacement Sheets and New Sheet into the specification. The Replacement Sheet for Figure 2 shows the compression spring 59. The New Sheet for Figure 4A shows how the volume insert 61 is disposed within dosing chamber 52. Figure 4B shows the structure and operation of dosing slide 22 as a rotary slide.

REMARKS

Applicant respectfully requests consideration and allowance of claims 1-4, 7-11, 14 and 17 pending in the above-identified patent application. Claim 1 has been amended herein to include the features of claim 6. Claims 5, 6, 12, 13 and 18 have been canceled herein. Applicant also respectfully requests entry and consideration of Figure 2, which has been amended herein to show the compression spring, as discussed in the originally filed specification. Similarly, new Figure 4A shows how volume insert can be disposed within the dosing chamber, while new Figure 4B has been added to show the operation of rotary slide feature as discussed in the originally filed specification. No new matter has been added by way of the amendments to the claims and specification.

Objection to the drawings under 37 CFR §1.83(a).

At page 2 of the Office Action, the Examiner objected to the drawings under 37 CFR §1.83(a), alleging that the drawings do not show every feature specified in the claims. Applicant has marked up FIG. 2 to incorporate compression spring 59. Compression springs were well known to those having ordinary skill in the art at the time the invention was made. Also, the original specification adequately describes how compression spring 59 associates with cylindrical bores 54 and 56 and pocket 58. By way of example only and not limitation, the specification states that cylindrical bores 54 and 56 are in the dosing slide 22 and parallel to slot 30, and that each slot may accommodate a compression spring, which bear on a wall of a pocket 58, to bias the dosing slide 22 into its filling position (*see* page 14 of Applicant's specification). Therefore, in marking up the drawing (*see* FIG. 2), no new matter has been introduced, and the objection has been traversed.

Regarding the "latching device" and the "further chamber" features, Applicant has cancelled claims 5, 12, 13 and 18, and accordingly the objection to the drawings under those bases is moot. Therefore, the Examiner is respectfully requested to withdraw the drawing objection.

Rejections under 35 U.S.C. § 112

At page 3 of the Office Action, the Examiner rejected claims 6 and 9 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement, alleging that the volume inserts with different external dimensions and rotatable dosing element are not described in the specification. Applicant respectfully traverses the rejection.

Regarding the Examiner's rejection of claim 6, Applicant has canceled claim 6 and incorporated its features into claim 1, and accordingly comments are directed to claim 1. Claim 1 requires "a dosing element with a dosing chamber for accommodating a defined partial amount of the preparation, the dosing chamber having releasably fixed volume inserts with different external dimensions in order to set the volume of the dosing chamber to a defined partial quantity of preparation, wherein the dosing chamber is movable between a filling position, in which it is to be filled with preparation from the chamber, and a dispensing position in which the preparation from the dosing chamber is to be discharged from the dosing device."

Applicant submits that the structure and function of the volume inserts with different external dimensions are fully described in the original specification, and therefore, the written description requirement is met. The specification states that, for example and not by way of limitation, "the insert simply has to be inserted in the dosing chamber," (*see* pages 6 and 16 of Applicant's amended specification), and a "dosing chamber with a fixed preset volume, volume inserts being releasably secured in the dosing chamber by latching therein in order to vary the volume," is provided (*see* pages 16-17 of Applicant's amended specification). In order to assist in understanding the disclosure as originally filed, Applicant submits herein new FIG. 4A, which shows, for example, a volume insert 61 having known external dimensions that can be inserted into the dosing chamber 52. If, for example, volume insert 61 comprised 50% of the volume of dosing chamber 52 capable of receiving a preparation, then half the normal dosage of the preparation would be administered. Furthermore, varying the external dimensions of the volume insert 61 would inherently vary the volume in dosing chamber 52 that is capable of receiving the preparation. Therefore, it is readily apparent that varying the external dimensions of volume insert 61 and inserting it within dosing chamber 52 inherently results in a different volume within dosing chamber 52 and thus known, graduated dosages can be achieved. With this in view, Applicant had possession of the volume inserts with different external dimensions as of the filing date of the application and the original specification complies with the written description

requirement of § 112, first paragraph. Accordingly, the rejection of claim 1, which now requires the features of the former claim 6, is traversed and the Examiner is respectfully requested to withdraw the § 112, first paragraph, rejection.

Regarding the Examiner's rejection of claim 9, Applicant submits that the rotary slide is fully described in the specification as originally filed. The specification states that "the use of a rotary slide as [a] dosing element is proposed, this slide being rotatable in a receptacle between its filling position and its dispensing position" (*see* pages 7 and 16 of Applicant's amended specification, and FIGS. 2-3). From the specification and drawings, it is evident, for example and not by way of limitation, to one of ordinary skill in the art that dosing chamber 52 can be charged with a preparation, and subsequently rotated to empty or deliver the preparation out dispensing opening 28. In order to assist in understanding the disclosure as originally filed, Applicant also submits herein new FIG. 4B, which show the rotary slide feature. FIG. 4B shows that dosing slide 22 can be rotated so that a preparation can be delivered from dosing chamber 52 out opening 28. New FIG. 4B adds no new subject matter as it is supported by pages 6 and 16-17 of Applicant's specification. Therefore, it can be seen that based on the original specification as filed, Applicant had possession of the rotary slide as of the filing date of the application. Accordingly, the rejection of claim 9 is traversed and the Examiner is respectfully requested to withdraw the § 112, first paragraph, rejection.

At page 3 of the Office Action, the Examiner rejected claims 3, 10 and 13 under 35 U.S.C. § 112, second paragraph, as indefinite. Applicant has amended claim 3 herein to remove recitation of the term "the head." Applicant has amended claim 10 herein to provide antecedent basis for the term "rotary slide." The Examiner has rejected claim 13, alleging that "further dosing chamber" is a double inclusion of "at least one further chamber" as recited in claim 12. Applicant has canceled claim 13 herein, and therefore the rejection is moot. Accordingly, the Examiner is respectfully requested to withdraw the § 112, second paragraph, rejection.

Rejections under 35 U.S.C. § 102

At page 4 of the Office Action, the Examiner rejected claims 1-5, 7, 8, 10-14, 17 and 18 under 35 U.S.C. § 102(b) as being anticipated by US Pat. No. 2,081,544 to Krivig (hereinafter "Krivig"). Applicant respectfully traverses this rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631; 2 USPQ2d 1051, 1053 (Fed.Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236; 9 USPQ2d 1913, 1920 (Fed.Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831; 15 USPQ2d 1566 (Fed.Cir. 1990).

As discussed above, claim 1 has been amended herein to incorporate the features of the former claim 6 and now requires "a dosing element with a dosing chamber for accommodating a defined partial amount of the preparation, the dosing chamber having releasably fixed volume inserts with different external dimensions in order to set the volume of the dosing chamber to a defined partial quantity of preparation, wherein the dosing chamber is movable between a filling position, in which it is to be filled with preparation from the chamber, and a dispensing position in which the preparation from the dosing chamber is to be discharged from the dosing device."

Krivig does not either expressly or inherently describe each and every element of claim 1. Specifically, Krivig does not describe the volume inserts with different external dimensions. The Examiner has not alleged that Krivig discloses the volume inserts and in fact, nowhere in Krivig is any structure apparent that would be capable of performing the function of the volume inserts as required by claim 1. Therefore, the rejection of claim 1 is traversed and accordingly, the Examiner is respectfully requested to withdraw the rejection.

Claims 2-4, 7-11 and 14 each ultimately depend from independent claim 1, each includes all elements of claim 1, and each recites additional patentable subject matter, and accordingly each such dependent claim is also allowable under 35 U.S.C. § 102. In view of the foregoing, Applicant submits that claims 1-4, 7-11 and 14 presently pending in the application are in condition for allowance.

Claims 17 has been amended to include the step of requiring "transferring a defined partial quantity of the first preparation into a first dosing chamber of a variable volume, the first dosing chamber having releasably fixed volume inserts with different external dimensions in order to set the volume of the first dosing chamber to a defined partial quantity of preparation." This step now includes the features of the former claim 6. For similar reasons as regards claim 1 as discussed herein, Krivig does not anticipate claims 17. Therefore, claim 17 is in condition for allowance.

Claims 5, 6, 12, 13 and 18 have been canceled herein and therefore, the rejection to these claims is moot.

Conclusion

In view of the foregoing, Applicant submits that claims 1-4, 7-11, 14 and 17 currently pending in the above identified application are in condition for allowance. Therefore the Examiner is respectfully requested to withdraw the rejections, and accordingly, both reconsideration of this application and allowance of claims 1-4, 7-11, 14 and 17 are solicited. Applicant respectfully requests early and favorable action in view of the above remarks and amendments. It is not believed that any fees are due. In the event there are any fees due and owing in connection with this matter, please charge same to our Deposit Account No. 11-0223.

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Respectfully submitted,

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